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TECHNOLOGY CENTER 3600

In re Application of
Nigel Evans et al.
Application No. 10/680,932
Filed: October 7, 2003

: **DECISION ON PETITION**
: **TO WITHDRAW THE**
: **HOLDING OF**
: **ABANDONMENT**

For: DUAL HOOK CLAMP

This is a decision on Applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) on November 15, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed March 29, 2004, which set a three-month shortened statutory period. No response was received and a Notice of Abandonment was mailed on October 7, 2004.

Petitioner contends that a response was faxed on July 22, 2004 and the USPTO lost this response.

Withdrawal of abandonment can only be made upon a showing by Applicant that a response was timely filed. Such a showing may include a certificate of mail or transmission, a USPTO date stamped post card receipt, or an auto-fax reply.


In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

Petitioner has not submitted a copy of a timely response to the Office action of March 29, 2004. No Certificate of Transmission has been provided, therefore, it is not clear at this time who should provide a statement under 37 CFR 1.8(b)(3). No copy of an auto-fax reply has been submitted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



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KJD/js: 9/23/05